

DECLARATION OF EMERGENCY**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division****New or Revised Emissions Estimation Methods
(LAC 33:III.501) (AQ240E6)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary to implement rules concerning the use of new or revised emissions estimation methods for annual compliance certifications required by LAC 33:III.507.H.

This is a renewal and revision of Emergency Rule AQ240E5, which was effective on April 22, 2006, and published in the *Louisiana Register* on May 20, 2006. This renewal of the Emergency Rule has been amended to reflect the substantive changes made to the proposed rule (AQ240S, published on pages 1371-1372 of the July 20, 2006, *Louisiana Register*) that will promulgate this regulation. This Emergency Rule clarifies requirements set forth in LAC 33:III.919, concerning emissions inventory, and LAC 33:III.507.H, concerning annual compliance certifications. LAC 33:III.919.C requires that emissions reported in the emissions inventory shall be calculated using the best available information. The department realizes that the Clean Air Act (42 U.S.C. §7430) requires EPA to periodically review AP-42 factors and that such emission factors may change upwards or downwards due to receipt of improved data.

The failure to adopt this rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare. The air regulations require that permittees use the latest version of any AP-42 factor used to calculate emissions reported on an annual emissions inventory. For some facilities, this will result in a change in the calculation of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some such facilities may elect to reduce or cease operations, which would have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers. Adding LAC 33:III.501.C.11-13 allows the department to review changes in emission factors on a case-by-case basis prior to any actions taken by the department.

This Emergency Rule is effective on August 20, 2006, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning AQ240E6 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Adopted this 18th day of August, 2006.

Mike D. McDaniel, Ph.D.
Secretary

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. – C.10. ...

11. Emissions shall be calculated in accordance with LAC 33:III.919.C.

12. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-accepted approved estimation methods may be promulgated or revised. As a result of new or revised AP-42 emission factors for sources or source categories and/or department-accepted estimation methods, changes in calculated emissions may occur. Emissions increasesChanges in reported emission levels as required by LAC 33:III.919.B.2.a due solely to a change in revised AP-42 emission factors or department-accepted estimation methods do not constitute violations of the air permit; however, the department may evaluate changes in emissions on a case-by-case basis, including but not limited to, assessing compliance with other applicable Louisiana air quality regulations. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

13. If the emission factors for any source or source category used in preparing the Annual Emission Statement required by LAC 33:III.918 and 919 differ from the emission factors used in the current air permit such that resulting "calculated" emissions reflect a change as defined in LAC 33:III.919.B.2.a, notification of the use of updated emission factors shall be included in the Title V Annual Certification, as specified in the affected permit. The notification shall include the old and new emission factor reference source and the date, volume, and edition (if applicable); the raw data for the reporting year used for that source category calculation; and applicable emission point and permit numbers that are impacted by such change. The notification shall include any other explanation, as well as the facility's intended time frame to reconcile the emission limits in the applicable permit. The department reserves the right to reopen a permit pursuant to LAC 33:III.529.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:**.